

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Hearing Date: 4/11-14/2000

**STAFF REPORT: APPEAL  
DE NOVO**

**LOCAL GOVERNMENT:** City of Santa Barbara

**DECISION:** Approval with Conditions

**APPEAL NO.:** A-4-SBC-99-200

**APPLICANT:** S.B. Beach Properties, L.P. and City of Santa  
Redevelopment Agency

**PROJECT LOCATION:** 20-120, State Street, 15 East Mason Street, 125 State Street,  
and State Street right-of-way between the Mission Creek  
Bridge and the Union Pacific Railroad right-of-way, City of  
Santa Barbara (areas A, B, and C)

**PROJECT DESCRIPTION:** Redevelopment of three blocks of properties at the  
intersection of State Street and Mason Street with a total of 17,532 square feet of  
commercial retail uses and 81 time-share units (each with a lock-out unit providing a  
maximum of a 162 time-share units), 210 parking spaces (including a two-story 145-space  
parking structure), Visitor Information Center, and narrowing of State Street to  
accommodate increased pedestrian access. (areas A, B, and C)

**APPELLANT:** Citizens Planning Association; League of Women Voters; Cars are Basic

**SUBSTANTIVE FILE DOCUMENTS:** City of Santa Barbara Local Coastal Program;  
Coastal Development Permit CDP99-0013

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**Staff Note:** The initial de novo hearing on this matter was held at the Commission's  
January 13, 2000 Commission meeting. At that hearing a number of issues were raised  
regarding the loss of lower cost overnight accommodations, impacts on traffic, the relation

of the project to possible flood control improvements to Mission Creek, parking demands, and control of polluted runoff. The Commission after hearing testimony continued the matter.

**Summary of Staff Recommendation: Approval with Conditions**

The Staff recommends that the Commission, after public hearing, approve the project with special conditions regarding the provision of lower cost over-night accommodations; the protection of parking accommodations; increased setback from the Mission Creek Estuary; the control of urban runoff; the incorporation of the City of Santa Barbara's Special Conditions attached to CDP99-0013; and Coastal Development Permit requirements for future land use changes.

**Staff Note: Appeals Jurisdiction**

The entire proposed project is situated on three separate areas referred to as areas A, B, and C. Area A is situated on the west side of State Street and separated from areas B and C, which are situated on the east side of State Street. For the reasons indicated below, only the development on area A is subject to the Commission's appeals jurisdiction.

On September 23, 1998, the Commission staff sent a letter to the City of Santa Barbara (Attached as Exhibit 6) discussing the fact that the La Entrada project includes development on three parcels, but that only area A falls within the Commission's appeal jurisdiction. In this letter, the Commission staff stated that on appeal of this project, the Commission would only review the development proposed for area A. The staff has examined this issue further and determined that ordinarily the Commission's jurisdiction on de novo hearings extends to all of the development proposed in the coastal development permit that was approved by the local government.

However, in light of the staff's previous advice and the applicant's reliance on that advice in processing the permit as it did, and for purposes of this appeal only, the staff recommends that the Commission adhere to the representation made in the September 23, 1998 letter and only review the impacts of development on area A. Consequently, the analysis in this report focuses on that portion of the project (area A). Other elements of this project located on parcels B and C are described in this staff report for informational purposes only.

The proposed project is located seaward of the U.S. Highway 101, with portions of the project (area A) located seaward of the line demarking the Commission's appeals jurisdiction. (Coastal Act Section 30603[a][1] and [a][2]) (See additional comments below.)

**I. Staff Recommendation**

**MOTION:**            *I move that the Commission approve Coastal Development Permit No. A-4-SBC-99-200, with conditions, pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. Standard Conditions**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III Special Conditions**

#### **1. Low Cost Visitor Accommodation Mitigation**

Prior to the issuance of a building permit for any development on area A authorized by this Coastal Development Permit, the applicant shall provide mitigation for the loss of existing low cost overnight visitor-serving accommodations by paying \$1,000,243.00 (One million two hundred and forty-three dollars) to the California Coastal Commission, which shall be deposited by the Executive director in an appropriate account. These funds and any interest that they may earn shall be used to provide for development of low cost over-night visitor accommodations within the Santa Barbara area or surrounding areas.

#### **2. Provision of Hotel Units**

Prior to the issuance of Coastal Development Permit for this project, the applicant shall prepare for the review and approval of the Executive Director revised plans which provide the 27 time-share units located on area A shall be operated as follows:

- a. Twenty (20) of the proposed time-share units on area A as identified by the applicants shall be approved as time-share units and be subdivided pursuant to the tentative subdivision map to accommodate the sale and operation as time-share units.
- b. Seven (7) of the proposed time-share units on area A, as identified by the applicants shall not be subdivided for sale and operation as time-share units. These seven units shall be operated for hotel use and available for public use. At the election of the applicants, it is understood that the actual interior configuration of the seven units may be redesigned to operated as 14 hotel rooms rather than in their current configuration as primary suite and lockout units.
- c. Any time-share units located on area A which are not in use by the time-share estate owners or his/her authorized guests or invitees or authorized time-share

exchange agents, shall be available for public use as a hotel configuration as a primary suites and a lockout unit.

d. Prior to issuance of the Coastal Development Permit on area A, the applicants shall prepare and submit for the review and approval of the Executive Director and shall implement an operational plan which will maximize the rental of the hotel units and the vacant time-share units to the general public. The project shall be operated in accordance with the approved operational plan.

### **3. Parking Facilities**

To ensure that all parking demands generated by the proposed development on area A are fully met, all parking facilities authorized by this Coastal Development permit, as described in the adopted findings and Exhibit 10 attached thereto, shall be maintained for the life of the project. Any modification of the parking facilities or their operation as described in the adopted findings, and the exhibits attached thereto, shall require an amendment to this Coastal Development Permit.

### **4. Mission Creek Estuary Setback**

Prior to the issuance of the Coastal Development Permit for this project, the applicant shall submit revised final building plans showing the reconfiguration of the parking structure attached to the California Hotel on area A which provides a minimum twenty-five (25) foot set-back from the proposed widened alignment of lower Mission Creek Estuary as depicted in Exhibit 20 attached to these findings.

### **5. Drainage and Polluted Runoff Control Plan**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan for the development on area A designed by a licensed engineer which minimizes the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall include but not be limited to the following criteria:

- a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions.
- b) Runoff from all roofs, parking areas, driveways and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be

designed to convey and discharge runoff in excess of this standard from the building site in non-erosive manner.

- c) The plan shall include provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area.

## **5. City of Santa Barbara Conditions**

All of the special conditions imposed on this project by the City of Santa Barbara as part of its local approval, and as contained in Exhibits 9 and 10 attached to these findings, shall be incorporated by reference to this Coastal Development Permit. Any modification of these conditions which effect the development authorized on area A by this Coastal Development Permit will require a modification of this Coastal Development Permit. For purposes of condition compliance, the City shall be responsible for review of the materials/documents required to be submitted for all special conditions as part of its local approval, and as contained in Exhibits 9 and 10 attached to these findings. The Commission shall be responsible for reviewing and determining compliance with Special Conditions #1 through #4 incorporated into this project as part of this Coastal Development Permit.

## **6. Change of Use**

Any change of the land uses approved as part of this Coastal Development Permit shall require an amendment to this Coastal Development Permit.

## **IV. Project Description**

The entire proposed project consists of the redevelopment of three blocks of properties at the intersection of State Street and Mason Street with a total of 17,532 square feet of commercial retail uses and 81 time-share units (each with a lock-out unit providing a potential maximum of a 162 time-share units), 210 parking spaces (including a two-story 145-space parking structure), Visitor Information Center, and narrowing of portions of State Street to accommodate enlarged pedestrian access. (See Exhibits 1 through 4.)

These developments would occur on three separate areas (areas A, B, and C). The proposed developments on area A consists of the conversion of 96 hotel units to 27 time-share units, renovation of 5,000 square feet of retail commercial, and the construction of a new 17 car parking structure.

## **V. Appeal Procedures**

The Coastal Act provides for appeals to the Coastal Commission after certification of Local Coastal Programs (LCPs) of a local government's actions on Coastal Development Permits.

Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses. (Coastal Act Section 30603[a]) Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]) Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5])

The proposed project is located seaward of the U.S. Highway 101, with portions of the project (**area A**) located seaward of the line demarking the Commission's appeals jurisdiction. (Coastal Act Section 30603[a][1] and [a][2])

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4]). Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal.

When a substantial issue is found to exist, the Commission will proceed to a full public *de novo* hearing on the merits of the project that may occur at a subsequent hearing. When the Commission conducts a *de novo* hearing on the merits of the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. When a *de novo* hearing is held, testimony may be taken from all interested persons at the *de novo* hearing.

## **VI. Local Government Action and Filing of Appeal**

The City of Santa Barbara approved a Coastal Development Permit (CDP99-0013) for the project on August 17, 1999 after considering an appeal by Citizens Planning Association, League of Women Voters, and Cars are Basic, and issued a Notice of Final Action for the Coastal Development Permit on August 18, 1999.

The Commission received the Notice of Final Action on the project on August 19, 1999, and received this appeal of the City's action on September 2, 1999. The appeal was filed on September 2, 1999, and was therefore filed within the 10 working day appeal period of the Commission's receipt of the Notice of Final Action as provided by the Commission's administrative regulations.

Pursuant to Section 30261 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued Coastal Development Permit is filed. In accordance with the California Code of Regulations, on September 3, 1999 staff requested all relevant documents and materials regarding the subject permit from the City to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists.

The Commission opened and continued the hearing at the October 1999 Commission meeting pursuant to Section 13112 of the California Code of Regulations. All of the administrative materials have been transmitted to the Commission and reviewed by staff. On November 4, 1999, after a public hearing, the Commission voted 11 to 0 to find that the City of Santa Barbara's approval of Coastal Development Permit CDP99-0013, with conditions, raised a substantial issue with respect to its consistency with the applicable provisions of the City of Santa Barbara's certified Local Coastal Program and the public access policies of the California Coastal Act. The Commission held a de novo hearing on the appeal on January 13, 2000, and postponed taking action on the matter.

## **VII. Findings and Declarations De Novo Hearing**

### ***1. Project description***

The entire proposed project consists of the redevelopment of three blocks of properties at the intersection of State Street and Mason Street with a total of 17,532 square feet of commercial retail uses and 81 time-share units (each with a lock-out unit providing a maximum of a 162 time-share units), 210 parking spaces (including a two-story 145-space parking structure), Visitor Information Center, and narrowing of State Street to accommodate enlarged pedestrian access. Only the developments on area A (conversion of 96 hotel units to 27 time-share units, renovation of 5,000 square feet of retail commercial,



and the construction of a new 17 car parking structure) are the subject of this review. (See Exhibits 1 through 4.)

## ***2. Issues Raised by the Appellant***

The Appellant has alleged the project is inconsistent with the Santa Barbara City Local Coastal Program because the development: (1) fails to protect public views from and to the coastal area; (2) will cause a major increase in traffic and congestion within the Waterfront area that will adversely affect public access to the beach; (3) fails to provide adequate parking in the proposed project area; (4) will negatively impact parking and circulation in the adjoining neighborhoods; and (5) fails to address the resources protection policies of the City's certified LCP with respect to the protection of Mission Creek; and (6) improperly replaces low-cost residential units with expensive time-share units and high intensity development. (See Exhibits 7 and 8.)

## ***3. Local Government Action and Filing of Appeal***

The Santa Barbara City Council approved a Coastal Development Permit for the project on August 17, 1999 after hearing an appeal of the Citizens Planning Association, League of Women Voters, and Cars are Basic, and issued the Notice of Final Action for a Coastal Development Permit on August 18, 1999. The project was approved by the City Council with a set of standard conditions, including conditions dealing with drainage, water extraction, landscaping, lighting, employee public transportation, parking lot maintenance, bicycle parking, management of the time-share units, public off-street parking, public use of common open areas, delivery traffic management, mix of visitor serving commercial uses, provision of shuttle service to public transportation centers, and public street and other infrastructure improvements. (See Exhibits 9 and 10.)

The Commission received the Notice of Final Action on the project on August 19, 1999, and received this appeal of the City's action on September 2, 1999. The appeal was filed on September 2, 1999, and was therefore filed within the 10 working day appeal period of the Commission's receipt of the Notice of Final Action as provided by the Commission's administrative regulations.

## ***4. Commission Action on Substantial Issue***

On November 4, 1999, after a public hearing, the Commission voted 11 to 0 to find that the City of Santa Barbara's approval of Coastal Development Permit CDP99-0013, with conditions, raised a substantial issue with respect to its consistency with the applicable provisions of the City of Santa Barbara's certified Local Coastal Program and the public access policies of the California Coastal Act.

### ***5. Coastal Issue Analysis***

Section 30603(b)(1) of the Coastal Act stipulates that:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

As noted above, in light of the staff's previous advice and the applicant's reliance on that advice in processing the permit as it did, and for purposes of this appeal only, the staff recommends that the Commission adhere to the representation made in the Commission staff's September 23, 1998 letter and only review the impacts of development on area A.

#### ***a. Area of Coastal Commission Appeals Jurisdiction***

The proposed project would be located in three distinct project areas along lower State Street (referred to as areas A, B, and C) which are comprised of separate legal parcels separated by public streets. The City of Santa Barbara issued a single Coastal Development Permit for the entire project, and the appellants have appealed that decision to the Commission. (See Exhibits 2 and 3.)

Prior to the issuance of the local Coastal Development Permit the City sought a boundary determination from the Commission staff to determine which portions of the project may fall within the appeals jurisdiction of the Commission and which portions of the project fall beyond the Commission's appeals jurisdiction. (See Exhibit 11.) The Commission staff prepared a boundary determination (BD 37-98) which determined that of the three distinct project areas (A, B, and C), only a portion of project area A of the project area lies within the Commission's appeals jurisdiction. (See Exhibits 3 and 6.)

Project area A is currently occupied by the four-story California Hotel and adjacent parking lot. The existing hotel contains a variety of commercial uses on the ground floor, and 96 hotel rooms and common hallways on the second, third and fourth floors. The improvements in project area A include a new three-story addition on the south side of the existing hotel (with a new lobby, parlor and commercial retail space on the ground floor, swimming pool, outdoor patio and snack bar/food service on the second floor, and time-share units on the third floor). A total of 27 single time-share units (with a total capacity of 54 time-shares with lock-outs) will be provided in the California Hotel on project site A.

Consequently, only the proposed development on project area A is addressed in the following coastal issue analysis.

***b. Public Views***

The appellant alleges that the City approved the project in a manner inconsistent with the public view protection standards of the City's certified Local Coastal Program. Specifically, that the proposed development because of its size and height would obstruct public views of the mountains and the beach.

LCP Policy 9-1 provides, in relevant part, that:

Existing views to, from, and along the ocean and scenic coastal areas shall be protected, preserved and enhanced. This may be accomplished by one or more of the following:

- (a) Acquisition of land for parks and open space;
- (b) Requiring view easements or corridors in new developments;
- (c) Specific development restrictions such as additional height limits, building orientation, and setback requirements for new development;
- (d) Developing a system to evaluate view impairment of new development in the review process.

LCP Policy 12.2 provides that:

New developments within the City's Waterfront Area shall be evaluated as to a project's impact upon the area's:

Openness  
Lack of Congestion  
Naturalness  
Rhythm

The proposed addition to the existing California Hotel in project area A would be a three-story, 30-foot high addition located on the south side of the existing 4 story hotel. The height limit in the HRC-II zone district in which the project is located is 45 feet. The proposed addition is therefore well below the height allowed in this district, as well as below the height of the existing adjacent hotel. Further, because of the location of the addition immediately to the south of the California Hotel, the addition will not significantly intrude into views of either the ocean (south) or the mountains (north) from lower State Street or Cabrillo Boulevard, or Stearns Wharf. The extension of the California Hotel on the south east face which is within the 20 foot setback area is flush with and consistent with the existing building arcade, and is therefore consistent with the City's variance provisions for building set-backs. (See Exhibit 4.)

The view blockage issues raised by the appellants with respect to the proposed developments in project areas B and C are located on separate parcels beyond the purview of the Commission because these developments are not on property located within the Commission's appeals jurisdiction. However, as a point of information, the City did perform a detailed visual analysis of the visual impacts of development on parcels B and C. This analysis indicated that the views affected by the developments on parcels C and B are landward views of the mountains, and do not affect seaward coastal views. Further, that the mountain views affected by the proposed development on area C are principally from the area directly in front of the California Hotel. As a result of this analysis, the City modified the original design to create view corridors through area C via a public plaza and paseo. However, the major public views of the mountains are from along Cabrillo Boulevard and are not adversely affected by the project.

In summary, the proposed development on area A, which is the portion of the project subject to the Commission's appeals jurisdiction, does not entail development that adversely affects public views of either the coast or the mountains.

The Commission therefore finds that the proposed development on area A, as conditioned, is consistent with the protection of public view standards of the City's certified Local Coastal Program.

*c. Traffic*

The Appellant has alleged that the City approved the project in a manner inconsistent with the traffic and congestion standards of LCP. Specifically, they allege that the proposed development would add significantly to the already heavily congested waterfront area by the intensification of development and by narrowing portions of State Street for pedestrian traffic.

LCP Policy 12.2 provides that:

New developments within the City's Waterfront Area shall be evaluated as to a project's impact upon the area's:

Openness  
Lack of Congestion  
Naturalness  
Rhythm

The entire project (areas A, B, and C) includes approximately 17,000 square feet of retail development, and approximately 62,000 square feet of time-share development. The development area A, which is the area within the Commission's appeals jurisdiction, includes approximately 5,000 square feet of retail and approximately 34,000 square feet of time-share development within the California Hotel. Additionally, area A would be developed with 9,749 square feet of parking area.

This proposed land-use changes for the entire project (areas A, B, and C) would reduce the existing retail commercial space by 20,000 square feet, and increase the hotel/time-share square footage by approximately 60,000 square feet. On area A, which is the area within the Commission appeals jurisdiction, the amount of retail would remain the same, while the hotel use would be eliminated completely, and the time-share use would increase by approximately 34,000 square feet.

The traffic analysis prepared for the entire proposed project indicates that the level of traffic for the entire project would be slightly reduced as a result of the change in the mix of land uses proposed as part of the project. Specifically, the traffic analysis found that the existing land use which would be removed as a result of the project would generate approximately 3,068 daily trips on Sundays (historically the peak traffic generating period), of which about 336 occur during the Sunday peak hour. The entire proposed project is projected to generate approximately 2,209 daily trips on Sunday, of which about 245 trips are projected to occur during the Sunday peak hour.

Consequently, the net new trip generation estimate for the entire project would be reduced by 859 daily trips on Sunday, and by 91 Sunday peak hour trips.

This evaluation is based upon the estimated traffic volumes associated with the current uses in the entire project area (areas A, B, and C), plus the traffic that would be generated by the California Hotel if it were operating. The amount of retail development on the entire project site is about one-half the amount of existing retail development. As noted, above the amount of retail development on area A (5,000 square feet), which is the portion of project within the Commission's appeals jurisdiction remains essentially the same. In addition, trip generation rates for time-share units are lower than for standard hotel units (such as the existing California Hotel). The City's traffic analysis notes that:

Retail generates approximately 11 vehicle trips per 1,000 square feet during the evening peak travel hour. The time-share units (measured in units similar to hotel rooms) are estimated to generate less than one trip per 1,000 square feet [an eleven-fold decrease from retail]. The change in land use category explains how the project can reduce the amount of retail space by nearly 20,000 square feet [over the square footage of existing buildings] and increase the amount of hotel/time-share

space by over 60,000 square feet [a three-fold increase], and still have a reduction in peak hour traffic trips. (See Exhibit 12.)

In the late 1970 and 80's the City narrowed State Street in the Downtown area from four traffic to two traffic lanes and widened sidewalks to create a pedestrian retail environment. The proposed project includes the continuation of the State Street Plaza design down to Cabrillo Boulevard. The Plaza design includes reducing the four traffic travel lanes to two between the Union Railroad line and Mason Street and between Mason Street and Cabrillo Boulevard (a distance of approximately 580 feet), and right-turn lane pockets at the intersections that also serve the State Street shuttle service, and queuing lanes. Additionally, the State Street Plaza design includes widened sidewalks, bike lanes, mid-block crossing that are pedestrian activated, and landscaping.

The City's traffic analysis identifies the principal cause of vehicular congestion within the project area to be the intersection of State Street and Cabrillo Boulevard, not an inadequate number or width of lanes along lower State Street. Currently the intersection of State Street and Cabrillo Boulevard operates at Level of Service (LOS) C during the weekday peak hours and at LOS E during the summer weekend peak hours. The significant number of pedestrian at this location and the fact that State Street dead end at this point are major factors that contribute to the high level of season service. The City traffic analysis noted that a travel lane has free flow capacity of 1,600 to 1,800 vehicles per hour, while the intersection at State and Cabrillo Boulevard has the capacity to handle between 600 and 900 vehicles per hour. As noted above, the limitation of the State Street and Cabrillo Boulevard intersection is a function of its physical dimensions, termination at the foot of Stearns Wharf, and the heavy pedestrian traffic in the area.

The reconfiguration of lower State Street, however, will retain stacking, passing and turn lanes for Mason Street and Cabrillo Boulevard intersections. The three stacking and passing lanes are 225 feet long and preserve the existing stacking capacity at the State Street and Cabrillo Boulevard intersection. These extra lanes provide adequate space for cars waiting to turn at the State Street and Cabrillo Boulevard intersection and therefore ensure that a back-up on to State Street will not occur. The proposed continuation of the State Street Plaza design is therefore consistent with the current capacity of the State Street and Cabrillo Boulevard intersection and would not contribute to the vehicular congestion of this intersection. (See Exhibit 4.)

The proposal to reduce the number of lanes along a portion of State Street is intended to encourage pedestrian access of the waterfront area, and represents an extension of the treatment of the upper portion of Street which is one lane in either direction, with a heavy emphasis on pedestrian amenities such as landscaping and street furniture.

This treatment is consistent with the City Circulation Element (incorporated into the City's Local Coastal Program as LCP Amendment 3-97) which contains a number of policies encouraging pedestrian and other non-motorized or alternative means of transportation throughout the City. Some of the relevant policies and implementation strategies include the following:

- 2.1.2 Expand and enhance the infrastructure for and promote the use of the bicycle as an alternative form of travel to the automobile.
- 5.1.1 Establish an annual sidewalk expansion and improvement program with a designated source of funding . . .
- 5.1.2 Identify and link major activity centers and destinations with walkways. This will consist of the following:
  - \*providing improved access for pedestrian (for example, between such areas as the Eastside, Westside, Mesa, Lower State, Upper State and Waterfront areas, major attractions, recreation, cultural, and commercial areas.).
- 5.6.1 Where necessary, allow all-way crossings or adjust signal timing to allow more time for pedestrians to cross the street. Priority should be given to area with high pedestrian activity as identified in the Sidewalk Inventory Study. Possible areas include Cabrillo Boulevard/State Street . . .

In furtherance of these policies, the City has also undertaken a number of capital improvement projects to facilitate access to the City's waterfront area. These major projects include the following:

- \* Extension of the four lane Garden Street to Cabrillo Boulevard
- \* Extension of the two lane Calle Caesar Chavez to Cabrillo Boulevard
- \* Initiating shuttle service between the upper downtown area of State Street and Cabrillo Boulevard (every 10 minutes)
- \* Providing new public parking facilities in the waterfront area
- \* Renovating the Railroad Depot
- \* Installation of on-street bike lanes on State Street
- \* Improvement of Montecito Street and Castillo Street, and

\* Improvements to the U.S. 101 off-ramp improvements at Milpas.

(See Exhibits 16 and 17.)

The entire proposed project itself includes a number of features to improve both the level and the quality of the pedestrian access to the water front, including, expanded sidewalks, a Visitor Information Center, three public plazas along the State Street Plaza, public paseos within the plaza, and on-street and off-street parking facilities. The proposed extension of the State Street Plaza through the project area, while outside the boundaries of area A, which is the area subject to the Commission's appeals jurisdiction, is fully consistent with the circulation policies, the general access policies of the City's certified Local Coastal Program, as well as the access policies of the California Coastal Act.

The appellants have raised several more specific questions regarding design features of the project which could allegedly adversely affect traffic flow, and therefore public access to the beach or adjoining local neighborhoods, these include the Mason Street entry/exit to the proposed parking structure on area A, the effect of allowing left turns off of State Street on to Mason Street, and the effect of Amtrak service across State Street.

**Mason Street Entry/Exit:** The appellants have alleged that the entry/exit off Mason Street to the parking structure which is to be constructed area A to service the California Hotel must intrude into the area now occupied by an existing structure located at 15 West Mason Street. The appellants have further alleged that the construction of the entry exit off Mason Street will therefore require the demolition of the structure at 15 West Mason which has not been permitted by the City as part of this project. A review of the plans approved by the City and included in the administrative record for the appeal indicates the entry/exit is to be under the existing second floor of the California Hotel and does not extend beyond the limits of area A or extend into the footprint of the adjacent building located at 15 West Mason Street.

**Left Turn Lanes from State Street:** The appellants have alleged that the proposal to provide left turns off of State Street on to Mason Street from both north and south bound State Street lane will adversely affect traffic flow on State Street and divert significant traffic onto adjacent surface streets in the adjacent residential neighborhoods. The City currently allows left turns off State Street from both north and south bound lanes onto Mason Street. The City's traffic analysis indicated that the rate of left turns off of State Street to Mason Street currently is quite low, between 10 and 15 vehicles per hour. The City also found that the narrowing of State Street would not change the level of left turn activity, and therefore would not adversely affect traffic along State Street, or in adjoining neighborhoods. Finally, it should be noted that the continuation of the left turn access off of State Street to Mason Street was supported by commercial businesses whose business are not served by through streets from the north side of U.S. Highway 101.



**Amtrak Service:** The appellants have alleged that the traffic analysis did not consider the effects of Amtrak trains blocking traffic as they stopped to pick-up and unload passengers at the nearby train station located immediately to the west of State Street. In the past, some passenger trains would block State Street as they stopped at the Santa Barbara Train Station to pick-up or unload passengers causing temporary disruption of car traffic. However, the City recently completed the renovation of the Santa Barbara Train Station after receiving a Coastal Development Permit from the Commission (A-4-96-SB-029). As part of the renovation, the train loading platform was extended to the west beyond the train station building specifically to move stopped trains off of State Street. As a result, trains are no longer stopped across State Street, and do not block traffic during the pick-up or unloading of passengers.

The Commission therefore finds that the proposed project, as conditioned, is in conformance with the traffic congestion standards and Circulation Element of the City's certified Local Coastal Program.

#### ***d. Parking***

The Appellants have alleged that the City approved the project in a manner inconsistent with the parking standards of the City's LCP. Specifically, they allege that the proposed development would add significantly to the already heavy parking demands in the City's waterfront area.

LCP Policy 3.3 provides that:

New development proposals within the coastal zone which could generate new recreational user residents or visitors shall provide adequate off-street parking to serve the present and future needs of development.

LCP Policy 11.5 provides that:

All new development in the waterfront area, excepting Stearns Wharf, shall provide adequate off-street parking to fully meet their peak needs. Parking needs for individual developments shall be evaluated on a site-specific basis and at a minimum be consistent with City Ordinance Requirements.

The proposed project would provide a total of 210 parking spaces to serve the retail commercial and time-share units for the entire project on areas A, B, and C. Of these 210 parking spaces, 17 would be provided in project area A (within the Commission's appeals jurisdiction), 48 in project area B, and 145 in project area C (both outside the Commission's appeals jurisdiction). The parking lots in areas A and B would be for the exclusive use of the time-share guests. The proposed two-story parking structure in area C (with 145 spaces) would be operated as a shared parking supply between the public commercial and private time-share units. The time-share space will be reserved based upon occupancy, with 48 of the spaces reserved at a minimum at all times for time-share

occupancy. The remaining available public parking spaces on area C will be operated on as a quasi-public parking facility on a first-come, first serve basis, and with the same free parking periods and pricing structure as the City's other public parking facilities. (An additional 47 car public parking lot, which is not part of this project has been previously permitted for a site across the street from the proposed project.)

The entire project would provide one parking space for each of the potential time-share units in the project, with 17 of these spaces located on area A within the appeals jurisdiction of the Commission. Because each of the 81 time-share units (27 of which are located in the Californian Hotel in project area A) can, with the lock-out capacity, function as two individual units, there is a potential total of 162 time-share units for the entire project, and 54 potential time-shares for area A. The applicant therefore proposes to provide 162 parking spaces for the time-share component of the entire project, 17 of which would be located on area A in a new parking structure attached to the California Hotel.

The total number of parking spaces required by the City's Zoning Ordinance Section 28.90 for the time share units and the retail commercial (based on 162 time-share units and 17,532 square feet of retail commercial) is 162 spaces for the time-share units and 70 spaces for the commercial uses, for a total of 247 parking spaces. The parking requirements for the proposed development (27 time-share units, with a potential for 54 lock-out units, and 5,363 square feet of commercial development) on area A is 54 spaces for the time-share units and 26 spaces for the retail commercial space, for a total of 80 parking spaces. However, the City's Local Coastal Program Policy 11.5 and Zoning Ordinance 28.92.026(A.1) specifically provides that these parking requirements can be adjusted based upon actual projected needs.

The parking analysis for the project indicates that the time-share units will rarely, if ever, use the entire 162 parking spaces provided. Time-share operations studies indicate that an average of 30% of the 81 suites will be used in the two-unit configuration at any given time, with the remaining 70% used as single unit suites. Under this projected scenario, the average parking demand generated by the time-share portion of the entire project would be 105 spaces, or 57 spaces less than the total number provided. The City's required 210 parking spaces is therefore adequate to meet the project parking demands of the entire project, and consistent with the parking requirements of the City's Local Coastal Program.

As noted above, only the development in project area A is within the appeals jurisdiction of the Commission and therefore subject to its review as part of this appeal. Project area A will be developed with 5,368 square feet of retail commercial space, and 27 time-share units, with potential to be converted to 54 units with the lock-out capacity. The parking demands created by the proposed retail commercial uses and 54 time-share units in project area A are projected to be 14 spaces for the retail commercial and 35 spaces for the time-share, for a total of 49 spaces. These parking demands will be met by the 17 on-site parking spaces, as well as the additional parking across State Street in project areas B and

C (48 and 145 parking spaces respectively). As noted above these parking spaces provide adequate parking for the time share-units (even under full double occupancy) and for the commercial retail parking.

Because of the size, configuration and existing development on area A, the parking requirements for the proposed uses on area A (27 time-share, with a potential for 54 lock-out units and approximately 5,000 square feet of retail commercial development within the existing California Hotel structure), cannot be met on area A. It should be noted further that this would be the case with virtually any proposed uses made of the California Hotel structure under the City's current parking requirements. From a planning perspective, the most appropriate location for the additional parking spaces required to meet the City parking requirements for the proposed uses of the California Hotel is off-site, but within walking distance of area A. The applicants have proposed meeting parking requirements that are not possible to be met on area A immediately across State Street on area C within 500 feet of the project site, which is consistent with the City's parking standards.

However, if the parking spaces proposed across State Street outside of the Commission's appeals area on parcels B and C are converted, eliminated, or required to meet additional retail, commercial, or other parking demands generated in the future by new development beyond the Commission's appeals jurisdiction, the parking demands generated by the development on area A within the Commission's appeals jurisdiction (including time-share and retail commercial) may be inadequate for the life of the development on area A. To ensure that the proposed parking facilities and their operation will be available during the life of the development on area A, it is necessary to add a special condition to the project which assures such that the project parking demand will continue to be met.

Special Condition #3 stipulates that the parking facilities described in these findings and the attached exhibits shall not be modified without first obtaining an amendment to this Coastal Development Permit. Additionally, Special Condition #6 incorporates the City's special conditions regarding the operation of the parking garage as a quasi-public facility.

In requiring assurances that the parking demand generated by the proposed development on area A are met and maintained for the life of the project, the Commission is not asserting jurisdiction to review development on area C, but is only allowing off-site mitigation to provide adequate parking to service the development on area A which falls within the Commission's appeals jurisdiction.

The Commission therefore finds that the proposed project, as conditioned, is in conformance with the parking standards of the City's certified Local Coastal Program, as well as the public access policies of the California Coastal Act.

***e. Parking and Circulation in Adjoining Neighborhoods***

The Appellants have alleged that the City approved the project in a manner inconsistent with the neighborhood protection policies of the City's LCP. Specifically, they allege that the proposed narrowing of State Street, provision of left turns onto Mason Street from State Street, and the Visitor Information Center would add significantly to parking and traffic congestion in the adjoining neighborhoods.

As noted above the projected traffic levels as a result of the proposed project are projected to be less than the existing levels because of the elimination of approximately 20,000 square feet of existing retail commercial in the entire project area (areas A, B, and C) and the reduced traffic generated from conversion from hotel to time-share use on in the California on area A. Currently left turns are allowed travelling both north and south on State Street onto Mason Street. The City's traffic analysis indicates that approximately 15 to 16 cars per hour currently make these left turns. The situation would not change as a result of this element of the project, and this level of traffic use would not substantially effect the traffic pattern in the adjoining neighborhoods, which do not offer attractive opportunities for through traffic. Further, the modification to State Street is intended to facilitate pedestrian access and use of the City's waterfront area by widening sidewalks and providing pedestrian oriented amenities such as the public plazas along the State Street frontage.

The proposed Visitor Serving Center would be located in project area C that is outside the area of the Commission's appeals jurisdiction. However, as previously noted, the parking previously proposed as part of this project is adequate and no parking or traffic impacts to adjoining neighborhoods is expected to occur. Additionally, Special Condition #6 incorporates the City's special conditions regarding the operation of the parking garage as a quasi-public facility. (See additional findings above under section c. Traffic.)

The Commission therefore finds that the approval of the project, as conditioned, is in conformance the parking and circulation requirements of the City's certified Local Coastal Program, as well as the public access policies of the California Coastal Act.

#### ***f. Resource Protection Policies***

The Appellant has alleged that the City approved the project in a manner inconsistent with the resource protection policies of the City's LCP. Specifically, it is alleged that the proposed development adversely impacts the biological resources of the nearby Mission Creek Estuary.

LCP Policy 6.8 provides that:

The riparian resources, biological productivity, and water quality of the City's coastal zone creeks shall be maintained, preserved, and where feasible, restored.

LCP Policy 6.10 provides that:

The City shall require a setback buffer for native vegetation between the top of the bank and any proposed project. This setback will vary depending upon the conditions of the site and the environmental impact of the proposed project.

Action:

The City shall conduct site specific investigations of Arroyo Burro Creek, Mission Creek, Sycamore Creek, and the Central Drainage Channel within the Coastal Zone to determine the required setback to be instituted in future development.

The Mission Creek Ordinance (SBMC 28.87.250), which has been incorporated into the Phase III LCP Implementation Ordinance provides further that:

Development shall not be permitted within twenty-five feet (25) feet of the top bank of Mission Creek.

Project area A is situated within the vicinity of the upper end of the Mission Creek Estuary. The proposed project includes an addition to the existing California Hotel. This addition consists of a three-story structure that would be located immediately adjacent to the south side of the Californian Hotel, and be connected with it. The California Hotel does not directly abut the Mission Creek Estuary, but is separated by adjacent buildings. The proposed addition is situated away from the Mission Creek Estuary and would in effect be surrounded by existing urban structures. Further, no part of the existing or proposed building is within twenty-five feet of the existing configuration of the Mission Creek Estuary.

However, since the Commission's January 13 public hearing on the project the U.S. Army Corps of Engineers has submitted a consistency determination to provide flood protection along the lower reaches of Mission Creek, including the Mission Creek Estuary. The preferred Alternative 12 Mission Creek alignment widens the existing Mission Creek and Estuary below U.S. Highway 101 from approximately 30 to 60 feet. The proposed flood control facility within the Coastal Zone between U.S. 101 and Cabrillo Boulevard would consist primarily of vertical walls, with two small areas that include short walls with vegetated riprap above the walls immediately opposite the Entrada de Santa Barbara project. This widened and realigned portion of the Mission Creek estuary would bring the originally proposed parking structure addition to the California Hotel to within a few feet

of the widened and realigned channel and estuary. (See Exhibit 19.) To accommodate this potential flood control project and to meet the required 25 foot creek set-back specified in the zoning ordinance of the City's Local Coastal Program, the applicants have submitted a revised preliminary project design which modifies the proposed parking structure addition to the California Hotel to provide a 25 foot creek set-back from the potentially widened and realigned Mission Creek and Estuary channel. This revision is consistent with the specific creek setback requirements of the City's Local Coastal Program and would allow for the development of riparian vegetation between the realigned and widened Mission Creek Estuary.

Special Condition #4 requires the applicant to submit final revised building plans providing the required 25-foot creek setback prior to issuance of the Coastal Development Permit. (See Exhibit 20.)

Regarding the potential for urban run-off, the proposed addition to the California Hotel would be constructed over an existing parking lot and would generate no more urban run-off than the existing parking lot, though it might reduce the incidence of accumulated oil and grease being washed into city streets and drains discharging to the Mission Creek Estuary as a result of constructing a covered parking structure.

The Mission Creek Estuary supports a variety of faunal resources, and provides habitat for a number of sensitive species, including two federal listed species, the Tidewater goby (*Eucyclogobius newberryi*) and the Southern steelhead trout (*Oncorhynchus newberryi*). The Tidewater goby is restricted to California estuaries, where it is a year-round resident. It is therefore particularly vulnerable to waste discharges, including non-point source pollutants such as urban run-off. Coastal estuaries are used by migrating adults and emigrating juvenile (smolts) Southern steelhead trout to acclimate to fresh and salt water during their movement between marine and freshwater environments; they also provide important rearing habitat where the estuary may constitute the largest areal extent of aquatic habitat in smaller coastal stream systems. Water quality in southern California estuaries have been degraded by a variety of waste discharges, and as a result frequently is not adequate to support steelhead, particularly rearing juveniles. Restoration of this type of habitat will require comprehensive non-point waste discharge plans in urban areas.

The City approval of the project contains a special condition (#B 1 i.) which requires the development and incorporation of best management practices through the project area (referred to as areas A, B, and C) to ensure the protection and preservation of Mission Creek. (See Exhibit 10, page 8.) Special Condition #6 incorporates the City's Special Condition requiring the development and incorporation of best management practices into the project. To ensure that the development on area A which is immediately adjacent to the Mission Creek Estuary does not contribute significant pollutants through urban runoff to the adjacent estuary, Special Condition #4 requires the applicant s to prepare an urban runoff control plan, with specific elements, for the review and approval of the Executive Director prior to issuance of the Coastal Development Permit.

The Commission therefore finds that the proposed project, as conditioned, is consistent with the resources protection policies of the City's certified Local Coastal Program.

*g. Lower Cost Visitor Serving Over-night Accommodations*

The Appellants have alleged that the City approved the project in a manner inconsistent with the lower-cost over-night accommodations protection policies of the City's LCP. Specifically, they allege that the proposed development will displace lower-cost over-night accommodations in the Californian Hotel with time-share units.

LCP Policy 4.4 provides that:

New hotel/motel development within the coastal zone shall, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Likewise, lower cost restaurants, or restaurants which provide a wide range of prices, are encouraged.

LCP Policy 4.5 further specifically, provides that:

Removal or conversion of existing lower cost visitor-serving uses in areas designed HRC-I, HRC-II, and Hotel/Residential shall be prohibited unless the use will be replaced by a facility offering comparable visitor-serving opportunities.

The proposed project involves the conversion of the four-story California Hotel (located in project area A within the Commissions appeals jurisdiction) from a hotel to a time-share operation. Currently the California Hotel contains 6,241 square feet of visitor serving commercial uses on the ground floor and 96 hotel rooms on the second, third, and fourth floors. The proposed project involves retaining the visitor serving commercial uses on the ground floor, constructing a three-story addition on the south side of the hotel, and converting 96 hotel rooms to 27 time-share units, with lock-out capability resulting in a potential of 54 time-share units.

The California Hotel, is eligible for designation as a structure of historic merit, and has offered lower-cost room rentals which have served both residential and visitor serving purposes. Room rentals in the past have ranged from \$200 per week, to \$75 for weekday and \$125 weekends immediately before being closed. The conversion of the Californian will entail a substantial renovation of the rooms. The structure has been deemed unsafe for occupancy by the City based upon state standards and as a result, occupation of the structure has been terminated, including the restaurant. Presently the owners of the California Hotel area under a requirement to seismically retrofit the structure to meet City and State earthquake standards. remodeling and up-grading of the facilities. These improvements, along with the conversion to time-share units will essentially remove the over-night accommodations from the category lower cost facilities.

The conversion of the Californian Hotel to a time-share operation will effectively remove units from the City's stock of affordable over-night accommodations and must be evaluated pursuant to the lower-cost visitor serving accommodation provisions of the City's Local Coastal Program.

The site of the California Hotel is zoned HRC-II (Hotel Recreational Commercial) which is intended to provide for visitor-serving and/or commercial recreational uses specific to the City's coastal zone. While the California Hotel may have provided at times affordable housing opportunities, the site is not designated for such use in the City's Local Coastal Program, and the hotel has not been operated as a residential establishment. However the conversion of the California Hotel to time-share units would have the effect of eliminating lower-cost over-night accommodations used for visitor serving purposes.

As noted above, the California Hotel has offered lower-cost room rentals, largely because of the structures advanced age and deteriorated condition. The proposed improvements, along with the conversion to time-share units will essentially remove the over-night accommodations from the category lower cost facilities.

The intent of the City's LCP Policies 4.4 and 4.5 is to ensure that there is a balanced mix of visitor serving and recreational facilities within the coastal zone, so as to provide coastal recreational and access opportunities to all economic sectors of the public. Access to coastal recreational facilities is also enhanced when there are overnight accommodations for all economic sections of the public. However, the Coastal Act Section 30213 expressly states that "The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility . . ."

Within the coastal zone of the City of Santa Barbara there are a wide variety of recreational and visitor serving accommodations. These overnight accommodations are concentrated along Cabrillo Boulevard, or other major arterials. According to the City's certified Local Coastal Program Land Use Plan in 1980 there were approximately thirty-five hotels and motels in the City's coastal zone, providing 965 overnight accommodations. Since that time there has been on hotel constructed with 300 room, and one hotel approved for 125 rooms. The cost of overnight accommodations noted in the City's Local Coastal Program Land Use Plan (which was developed in 1980) ranged from \$10 to \$50 per night. This range has dramatically increased as a result of inflation, with room costs ranging from \$50 to \$200 per night. Many of these structures are older facilities, which have or will undergo renovation, either to upgrade the amenities offered, or to meet current building codes, including seismic building standards. As more recycling of these facilities occurs, the stock of lower cost overnight accommodations will be reduced, since it is not economically possible to replace or renovate these facilities without passing on the construction costs to guests. The City has recognized the need to replace lost lower cost overnight visitor serving accommodations its LCP Policies. 4.4 and 4.5. Additionally, the City's LCP Land



Use Plan contains the following discussion regarding the preservation of lower-cost visitor-serving over-night accommodations:

In addition to visitor serving uses, preservation of lower cost lodging and restaurants is important. Preservation of lower cost uses can be achieved in part, by: (1) ensuring that an adequate supply of lodging and restaurant opportunities is available so that demand does not result in exclusive prices; and (2) maintaining and encouraging a range of price and type of lodging units available. Ensuring an adequate supply of overnight lodging and restaurants will require control of conversion of visitor-serving use to other uses, and encouragement of new visitor serving uses in appropriate areas as demand increases. Similarly, for development of new overnight accommodations, a possible condition of development should require a range of accommodations so that moderate and lower cost price lodging continues to be available in Santa Barbara's coastal zone.

In approving the conversion of the California Hotel to a time-share operation, the City did not adequately consider the lower-cost overnight accommodation opportunities historically provided by the hotel, the need to replace the loss of the 96 hotel units with moderate or lower cost lodging opportunities. Both the Commission and the City have approved two hotels within the vicinity within the last 15 years (with 300 and 150 rooms) which provide accommodations at the upper end of the hotel room rental rates (i.e., between \$150 and \$500 per night). The conversion of the California Hotel to a time-share operation will effectively eliminate all 96 of the lower-cost overnight accommodation units from the market within the City's Coastal Zone. It is therefore necessary to condition the proposed project to mitigate for the loss of these lower-cost overnight visitor-serving accommodations.

Where construction costs effectively prohibit the retention of existing lower-cost overnight visitor-serving accommodations, the Commission has imposed a per unit mitigation fee to be used to provide alternative lower-cost overnight visitor serving accommodations. See for example, Coastal Development Permits A-3-MCO-98-083 (Highlands Inn Investors II Ltd.) and 5-90-828 (Maguire Thomas Partners). In assessing a mitigation fee per unit the Commission has used an amount of \$8,000 per unit based upon the methodology developed by the City of Santa Monica in 1989. That methodology considers land, improvement, operating and financing costs, return on equity, development constraints, and the average room rate for lower-cost overnight accommodations. (See Exhibits 13, 14, and 15.)

The costs of providing affordable overnight visitor serving accommodations in the Santa Barbara area is comparable to those in Santa Monica, based upon average room rate for lower-cost overnight accommodations and development costs. The imposition of an \$8,000 per unit mitigation fee is therefore consistent with and adequate to offset the loss of

the 96 hotel units in the California Hotel through conversion to time-share. However, 10 years have elapsed since the study upon which this mitigation fee was based, and inflation has had the effect of eroding the purchasing power of this per unit mitigation amount. Consequently, additional amount must be added to this base mitigation fee to accomplish its basic purpose. The total percentage increase in the U.S. Consumer Price Index for the Southern California area for the period from 1989 through 1999 is 30.24%. The increase in the base mitigation fee of \$768,000.00 (96 units x \$8,000) is therefore \$232,243.00 ( $0.3024 \times 768,000$ ), and the total mitigation fee is \$1,000,243.00 (\$768,000 + \$232,243). This figure represents a fee of \$10,419.00 per unit conversion.

To ensure the protection and provision of adequate lower-cost overnight visitor-serving accommodations, therefore, it is necessary to add a special condition, which imposes a mitigation fee on the conversion of the 96 hotel units. Special Condition #1 specifically requires that:

Prior to the issuance of a building permit for any development on area A authorized by this Coastal Development Permit, the applicant shall provide mitigation for the loss of existing low cost over-night visitor-serving accommodations by paying \$1,000,243.00 (One million two hundred and forty-three dollars) to the California Coastal Commission, which shall be deposited by the Executive director in an appropriate account. These funds and any interest which they may earn shall be used to provide for development of low cost over-night visitor accommodations within the Santa Barbara area or surrounding areas.

Special Condition #2 provides that:

Prior to the issuance of Coastal Development Permit for this project, the applicant shall prepare for the review and approval of the Executive Director revised plans which provide the 27 time-share units located on area A shall be operated as follows:

- i. Twenty (20) of the proposed time-share units on area A as identified by the applicants shall be approved as time-share units and be subdivided pursuant to the tentative subdivision map to accommodate the sale and operation as time-share units.
- ii. Seven (7) of the proposed time-share unit on area A, as identified by the applicants shall not be subdivided for sale and operation as time-share units. These seven units shall be operated for hotel use and available for public use. At the election of the applicants, it is undusted that the actual interior configuration of the seven units may be redesigned to operated as 14 hotel rooms rather than in their current configuration as primary suite and lockout units.
- iii. Any time-share units located on area A which is not in use by the time-share estate owners or his/her authorized guests or invitees or authorized time-share

exchange agents, shall be available for public use as a hotel configuration as a primary suites and a lockout unit.

iv. Prior to issuance of the Coastal Development Permit of area A, the applicants shall prepare and submit for the review and approval of the Executive Director and shall implement an operational plan which will maximize the rental of the Transient/Hotel units and the vacant time-share units to the general public. The project shall be operated in accordance with the approved operational plan.

The applicant has indicated their willingness to off-set the loss of the 96 lower cost overnight accommodations historically provided by the California Hotel the provisions of Special Conditions #1 and #2.

To further off-set the loss of the overnight affordable visitor serving accommodations historically provided by the California Hotel it is necessary to provide a plan for the overnight rental of timeshare units which are not occupied by the owners to the maximum extent possible. Special Condition #2 requires that the applicant submit a plan, which maximizes the availability of the timeshare units as rental units, and thus ensures their availability to a wide economic segment of the visitor-serving public.

Questions have been raised as to whether the amount of the proposed mitigation fee should be increased, based on the expectation that the project will generate sufficient profits to allow for payment of a larger fee. If the Commission wishes to require a higher mitigation fee, it must find that the resulting fee is roughly proportional to the impacts of the proposed development. *Dolan v. City of Tigard* (1994) 512 U.S. 374; *Ehrlich v City of Culver City* (1996) 12 Cal. 4<sup>th</sup> 854. In other words, the Commission must find that the amount of the fee roughly corresponds to the cost of providing mitigation for the loss of lower-cost overnight accommodations. The evidence before the Commission shows based on the methodology developed by the City of Santa Monica and the appropriate adjustment for inflation, that the mitigation fee of \$1,000,243.00 is appropriate to fund replacement of the lower-cost overnight accommodations that are being lost.

It should be noted that at least one potential site for lower-cost over-night accommodations has been identified by the City within one block of the California Hotel: the existing Neal Hotel located at 217 State Street. This is a three-story structure which is zoned HR-2, but is currently used for a combination of restaurant/bar on the lower flower and corporate offices on the upper two levels. The Commission staff has been advised by the City of Santa Barbara that the Redevelopment Agency of the City of Santa Barbara has met with the officers of the Neal Hotel since the Commission's January 13, 1999 hearing to explore the feasibility of renovating the Neal Hotel property as affordable overnight hotel accommodations. To date these discussion have led to the development of a draft Memorandum of Understanding between the staff of the Redevelopment Agency and the Owner of the Neal Hotel, the purpose of which is to set forth the general terms of a grant application to the Coastal Commission for a project providing lower cost overnight

accommodations using mitigation funds required by this Coastal Development Permit. Additionally the owners of the Neal Hotel have prepared preliminary plans for the renovated Neal Hotel which would provide 52 rooms with bathrooms. These rooms would be modest to small in size in order to ensure their affordability. (Forty of these rooms would be 315 square feet, and 12 would be 200 square feet.) (See Exhibit 18.)

The Commission therefore finds that the proposed project, as conditioned, is consistent with the lower-cost visitor serving policies of the City's certified Local Coastal Program, as well as the public access policies of the California Coastal Act.

#### ***h. Public Access***

Section 30603(b)(1) of the Coastal Act stipulates that:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Coastal Act Section 30210 provides that:

In carrying out the standards of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30213 provides that:

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.

As noted above, the proposed project involves the conversion of the California Hotel (located on project area A within the Commission's appeals jurisdiction) from a hotel to a time-share operation. Currently the California Hotel contains 6,241 square feet of visitor serving commercial uses on the ground floor and 96 hotel rooms on the second, third, and fourth floors. The proposed project involves retaining the visitor serving commercial uses on the ground floor, addition a two story addition on the south side of the hotel, and converting 96 hotel room to 27 time share units, with lock-out capability resulting a potential of 54 time share units. The proposed project also the construction of 210 parking spaces (17 on area A and the remainder on areas B and C), the construction of a visitor serving center, the narrowing of portions of lower State Street, and the widening of pedestrian sidewalks within the project area.

The proposed project would also provide additional visitor serving amenities that would facilitate access to the beach, including a visitor serving center, wider pedestrian walkways, several public open space plazas, and a parking facility which would provide additional public parking opportunities. Further, as noted in the above findings regarding traffic and parking, the proposed project would not adversely impact existing vehicular access as a result of eliminating portions of two vehicular lanes along State Street. Both the parking and traffic studies conducted for the project and reviewed by the City support the conclusion that public access to the existing public parking structures in the vicinity of the waterfront and the commercial and public waterfront facilities and amenities would not be adversely affected by the proposed development.

Finally, as noted above, the California Hotel, has offered lower-cost room rentals, largely because of the structure's advanced age and deteriorated condition, which have provided lower cost access opportunities to the Santa Barbara waterfront area. The conversion of the California Hotel to a time-share operation will effectively eliminate all 96 of the lower-cost overnight accommodation units from the market within the City's Coastal Zone. To ensure that the full range of access opportunities will be provided along the Santa Barbara waterfront, it is necessary to add a special condition, which imposes a mitigation fee on the conversion of the 96 hotel units. Such fees are to be used to provide alternative affordable overnight visitor-serving accommodations. (See additional findings above.)

The Commission therefore finds that the proposed project, as conditioned, is in conformance with the public access standards of the California Coastal Act, as well as the City's certified Local Coastal Program.

## **6. CEQA**

The proposed site lies within the City of Santa Barbara Coastal Zone, and a portion within the Commission's appeals jurisdiction because it is located on potential state tidelands. The Commission has certified the Local Coastal Program for the City of Santa Barbara (Land Use Plan and Implementation Ordinances) which contain policies for regulating development and protection of coastal resources, including the protection of environmentally sensitive habitats, recreational and visitor-serving facilities, coastal hazards, and public access.

Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts, which the activity would have on the environment.

As conditioned, the proposed project incorporates the least environmentally damaging feasible alternatives to carrying out the project, and will fully mitigate any temporary adverse impacts associated with the project.

The proposed development, as conditioned, would not cause significant adverse environmental impacts, which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the Commission finds that the proposed project, as conditioned to mitigate any identified effects, is the least environmentally damaging feasible alternative, and can be found consistent with requirements of CEQA and with the policies of the Coastal Act.

MHC/